

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
GLOBAL CROSSING LTD. )  
(DEBTOR-IN-POSSESSION) and )  
GQ ACQUISITION LIMITED )  
For Approval of the Transfer of )  
Control of Global Crossing Ltd. )  
(Debtor-in-Possession)'s )  
Hawaii Operating Subsidiaries to )  
GC Acquisition Limited. )  
\_\_\_\_\_ )

DOCKET NO. 02-0351

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

DECISION AND ORDER NO. 19945

Filed Dec. 31, 2002  
At 8 o'clock A..M.

Kris H. Halsey  
for Chief Clerk of the Commission

ATTEST: A True Copy  
CATHERINE SAKATO  
Clerk  
Public Utilities Commission  
State of Hawaii

C. Sakato

BEFORE THE PUBLIC UTILITIES COMMISSION  
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Hawaii Operating Subsidiaries to)	
GC Acquisition Limited.	)
_____)	

DECISION AND ORDER

I.

By petition filed on September 20, 2002, GLOBAL CROSSING LTD (Debtor-in-Possession) (GCL) and GC ACQUISITION LIMITED (GX) (collectively, Petitioners) request approval of a transfer of control of GCL's Hawaii-licensed subsidiaries (the Hawaii subsidiaries) from GCL to GX, and to encumber the Hawaii subsidiaries' assets as part of a related transaction (proposed transfer of control).<sup>1</sup> Petitioners make their request pursuant to Hawaii Revised Statutes (HRS) § 269-19. Petitioners also

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<sup>1</sup>The subsidiaries are Global Crossing North American Networks, Inc., (GCNAN) (Debtor-in-Possession) and Global Crossing Telecommunications, Inc. (GCTI). In their petition, Petitioners state that GCNAN is authorized to provide telecommunications services in Hawaii as a facilities-based provider, however, pursuant to Decision and Order No. 15202, filed on December 4, 1996, in Docket No. 96-0430, GCNAN is authorized to operate as a reseller of intrastate telecommunications services in Hawaii. GCTI is also authorized to provide resold intrastate telecommunications services in Hawaii, pursuant to Decision and Order No. 16146, filed on January 5, 1998, in Docket No. 97-0416.

request a waiver of Hawaii Administrative Rules (HAR) § 6-61-105, to the extent that the petition does not satisfy its requirements.

Petitioners served copies of their petition on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate). On October 24, 2002, the Consumer Advocate submitted its statement of position (SOP) stating that it does not object to the approval of Petitioners' requests, provided that certain conditions relating to the Hawaii subsidiaries are satisfied. On November 8, 2002, Petitioners responded to the Consumer Advocate's SOP, and advised the commission that Petitioners had satisfied the conditions set forth in the Consumer Advocate's SOP. On November 25, 2002, the Consumer Advocate informed the commission that it no longer had any objections to Petitioners' proposed transfer of control of GCL's Hawaii subsidiaries from GCL to GX, as Petitioners had satisfied all conditions noted in its October 24, 2002 SOP.

## II.

### A.

GCL is a global telecommunications company organized under the laws of Bermuda. Through its subsidiaries, including the Hawaii subsidiaries, GCL provides integrated telecommunications services, including managed data, voice and Internet services to corporations, government agencies, and telecommunications carriers throughout the world. In the United

States, GCL's operating subsidiaries provide intrastate, interstate, and international services.

GX is a newly formed company organized under the laws of Bermuda for the purpose of carrying out the proposed transaction. Currently, GCL is the sole shareholder of GX. Subsequent to the consummation of the proposed transaction, Hutchison Telecommunications Limited (Hutchison) and Singapore Technologies Telemedia Pte Ltd. (STT) will each invest \$125 million in GX in exchange for each having 30.75 percent of GX's equity and voting power.<sup>2</sup>

B.

On January 28, 2002, GCL and certain of its subsidiaries, including the Hawaii subsidiaries, filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code (Chapter 11). During the reorganization process, GCL and the Hawaii subsidiaries retained possession of their property and businesses, and Petitioners state that they possess adequate funds to finance their operations during this period. On August 9, 2002, the Bankruptcy Court authorized GCL to enter into a purchase agreement to bring about the proposed transaction.

The proposed transfer of control will involve the transfer from GCL of substantially all of its assets, including

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<sup>2</sup>Hutchison is a Hong Kong company that holds worldwide telecommunications interests through a variety of operating subsidiaries. Neither Hutchison nor its subsidiaries provide telecommunications services in Hawaii. STT is a Singapore telecommunications and information technologies company. It does not provide telecommunications services in Hawaii.

its interests in the Hawaii subsidiaries, to GX. Upon perfection of the proposed transfer of control, GCL will relinquish all of its equity and voting power in GX, and GX will become the new ultimate parent of the Hawaii subsidiaries.

As noted above, pursuant to the proposed transfer of control, Hutchison and STT each will invest \$125 million in GX, and in exchange obtain common and preferred stock equal to 30.75 per cent of the equity and voting power of GX. GCL's creditors and debtor subsidiaries will also be issued GX common stock in an amount of up to 38.5 per cent of GX's equity and voting power, as well as \$200 million in senior secured notes and \$300 million in cash.<sup>3</sup> In addition, the proposed transfer of control contemplates the issuance of stock options to the management of GX in an aggregate amount of up to 8 per cent of the fully diluted equity of GX.

### III.

In this docket we will review the proposed transfer of control, pursuant to HRS § 269-19. In relevant part, HRS § 269-19 provides that a telecommunications carrier shall not:

[S]ell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its road, line, plant system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit, or any right thereunder, nor by any means, directly or indirectly, merge or consolidate with any other public utility corporation without

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<sup>3</sup>GCL's creditors include banks, bondholders, other communications carriers, equipment vendors, and other secured and unsecured creditors.

first having secured from the public utilities commission an order authorizing it so to do.

HRS § 269-19.

Based on our review of the record, we find that the proposed transfer of control of GCL's Hawaii subsidiaries to GX in its Chapter 11 plan of reorganization is reasonable and in the public interest. The proposed transfer of control will strengthen the Hawaii subsidiaries by allowing them to emerge from bankruptcy reorganization in a stronger position to compete in the telecommunications market. In this regard, the viability of the Hawaii subsidiaries will also serve the public interest by ensuring a competitive Hawaii telecommunications market. Moreover, the proposed transfer of control is not expected to affect the daily operations of the Hawaii subsidiaries, and Petitioners represent that such transaction will be transparent to their customers. Accordingly, we conclude that the proposed transfer of control should be approved.

#### IV.

Pursuant to HAR § 6-80-135, the commission may, upon its own motion, or the written request of any person, grant an exemption from or waive the applicability of any of the provisions of HRS chapter 269 or any rule, upon a determination that an exemption or waiver is in the public interest. Petitioners request a waiver of the filing requirements of HAR § 6-61-105, to the extent that the petition does not wholly

satisfy the requirements. The Consumer Advocate does not object to Petitioners' request. We find Petitioners' request to be unnecessary, as their petition satisfies the requirements of HAR § 6-61-105. Accordingly, we conclude that Petitioners' request for a waiver is moot, and the commission will not address this matter.

V.

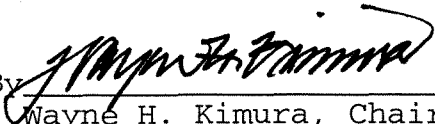
THE COMMISSION ORDERS:

1. Petitioners' request for approval to transfer control of GCL's Hawaii subsidiaries from GCL to GX, and to encumber the Hawaii subsidiaries' assets as part of the proposed transaction, filed on September 20, 2002, is approved.
2. This docket is closed.

DONE at Honolulu, Hawaii this 31st day of December, 2002.

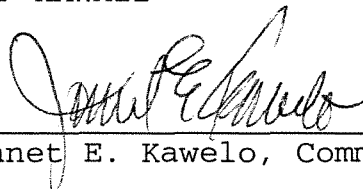
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By



Wayne H. Kimura, Chairman

By



Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:



Benedyne S. Stone  
Commission Counsel

By



Gregg J. Kinkley, Commissioner

02-0351.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19945 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

JEAN L. KIDDOO, ESQ.  
PAUL O. GAGNIER, ESQ.  
MICHAEL P. DONAHUE, ESQ.  
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007-5116

JUDY A. TANAKA, ESQ.  
PAUL JOHNSON PARK & NILES  
Suite 1300 Pacific Tower  
1001 Bishop Street  
Honolulu, HI 96813

*Catherine Sakao*

for

Karen Higashi

DATED: December 31, 2002